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To: Obama Transition Team for Federal Maritime Commission

From: Passenger Vessel Association

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The Passenger Vessel Association (PVA). PVA is the national trade association for U.S.-flagged passenger vessels of all types. It represents the interests of owners and operators of overnight cruise ships, passenger and vehicular ferries, dinner cruise vessels, sightseeing and excursion vessels, private charter vessels, whalewatching and eco-tour operators, windjammers, gaming vessels, amphibious vessels, and water taxis. PVA currently has nearly 600 vessel and associate members. Its vessel-operating members range from governmental agencies operating ferries to companies with several large vessels in different locations to small family businesses with a single boat.

Most large cruise ships that depart U.S. ports on international routes are registered in foreign nations. Their crews are predominantly foreign, they are not required to comply with U.S. labor laws, and they pay virtually no U.S. income taxes. PVA does not represent foreign cruise ships.

Within the PVA membership, there is one operator of a large U.S.-flagged cruise ship in Hawaii. There are several operators of up to two dozen "small" (50-300 passenger) cruise ships. These vessels operate on inland rivers, on coastwise routes, and in southeast Alaska. These operators register their vessels in the U.S., employ Americans as crew members, and pay federal and state income taxes. They are subject to the Federal Maritime Commission's financial responsibility requirements.

Evidence of Financial Responsibility. As mandated by Title 46 *United States Code* section 44101 *et seq.* (section 3 of Public Law 89-777), the FMC requires the operator of every passenger vessel that "has berth or stateroom accommodations for at least 50 passengers" and that "boards passengers at a port in the United States" to demonstrate evidence of financial responsibility to indemnify passengers in the event of nonperformance. There is also a requirement for evidence of financial responsibility to meet liability for death or injury to passengers. The requirements can be satisfied by means of bond, guaranty, or an escrow account.

Protection Offered by Credit Card Transactions Should be Considered. When a passenger pays for his or her ticket by means of a credit card (as most customers do), there may be an established and effective remedy in the event of operator nonperformance under the Fair Credit Bulling Act. This remedy did not exist when Congress first enacted Section 3 of Public Law 89-777. However, the FMC fails to take this remedy into account when it determines the amount of evidence of financial responsibility to be demonstrated by the passenger vessel operator.